

UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

BEC CONSTRUCTION CORPORATION,  
JESUS G. BARREIRO,  
FRANCISCO C. ESPINOSA,  
ARTHUR J. XIQUES,  
ADOLFO M. ALBAISA,  
LESTER C. PANCOAST,  
PANCOAST ALBAISA ARCHITECTS,  
PEDRO J. DUQUESNE and DEZARRAGA,  
DONNELL & DUQUESNE,  
RAMON DONNELL and DEZARRAGA,  
DONNELL & DUQUESNE,

Respondents.

HUDALJ 93-1965-DB  
HUDALJ 93-1966-DB  
HUDALJ 93-1971-DB  
HUDALJ 92-1972-DB  
HUDALJ 93-1982-DB  
HUDALJ 93-1984-DB  
HUDALJ 93-1985-DB  
HUDALJ 93-1998-DB

HUDALJ 93-1999-DB

**ORDER DENYING DISMISSAL OF PROCEEDING  
AGAINST INDIVIDUAL RESPONDENT**

On September 23, 1993, counsel for Respondent Lester C. Pancoast filed his Motion For Order Dismissing Debarment Proceeding Against Lester C. Pancoast and a Memorandum In Support of the Motion. The grounds stated for the Motion are that Pancoast did not perform any architectural services in connection with the Saga Bay Apartments and San Augustin Apartments which are the subject of the Government's Complaint and that, accordingly, Pancoast "... did not participate in, or know, or have reason to know, of any alleged acts or omissions in connection with ..." the two projects. Counsel argues in addition that HUD's debarment regulations do not permit debarment based solely on a respondent's status as a principle in a culpable firm.

On October 6, 1993, counsel for the government filed the Government's Opposition to the Motion. The Government is correct in arguing that as partners in Pancoast Albaisa Architects, and as "principles and sole shareholders" of Pancoast

Albaisa Architects, in the words of Respondent's own declaration, both are participants in all that the firm does. The Government is also correct in arguing that HUD's regulations permit the Department to sanction the owner of a company based on the wrongdoing of other officers, employees, directors, partners, or shareholders if the wrongdoing occurred on behalf of the owner or with the owner's knowledge, approval, or acquiescence. See 24 CFR 24.325 (b)(1). Such knowledge may be imputed where a respondent knew of or merely had reason to know of the direct participant's conduct. 24 CFR 325(b)(2).

Accordingly, and for the reasons stated in the government's Opposition, the Motion is DENIED.

So ORDERED.

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ROBERT A. ANDRETTA  
Administrative Law Judge

Dated: October 7, 1993.

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of this ORDER issued by ROBERT A. ANDRETTA, Administrative Law Judge, in HUDALJ 93-1965-DB, HUDALJ 93-1966-DB, HUDALJ 93-1971-DB, HUDALJ 93-1972-DB, HUDALJ 93-1982-DB, HUDALJ 93-1984-DB, HUDALJ 93-1985-DB, HUDALJ 93-1998-DB, and HUDALJ 93-1999-DB, were sent to the following parties on this 7th day of October, 1993, in the manner indicated:

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